The charges of the protestants alor Dubois. I beg your pardon. The of the protestants did not al-

it. It. so understood it. senator Boveridge. That was the charge a centeman named Lellich. Senator Dubois. That was a plural marrise senator Heveridge. No, as to Mr. Smoot

senator neveringe. No, as to Mr. Smoot hing a polygamist. Senator Foraker. I say that charge was add by some one. I understand that Mr. Tayler never professed to press that charge.

One of the Issues.

Tayler. Nor the protestants, ator Hoar Mr. Tayler, may I read, to you proceed, one sentence of your of proof, made the other day? It admitted that Mr. Smoot is one of the apostics. This statement is on

May I ask if the

for the chairman. We will hear you further your objection. Mr. Van Cott.

Van Cott's Objections. Mr. Van Cott. I will ask Senator Hoar

ain statement about coming here to ain the issues. It is true as the man says, that the particular re-

Salt Laker's Understanding.

At I understand the question, I have to all understand the Question Hoar's question. That is the element of religious believ. That is the element of religious believ. That is the element of religious believ. It is the thing we have believe in the thing we have the thing the thing

Case of Reynolds Cited.

Case of Reynolds Cited.

Now to make myself clear, the case of straids we. The United States, involving the straids we. The United States, involving the strain of polygamy, went to the segment Court of the United States, and the decision was rendered by Chief Justice alle. In the course of that decision he look up this question of religion and disasted the Virginia act that was before proposed in Virginia that it was proposed pas, and which Thomas Jefferson and the opposed. It is on that that the state of the proposed in the proposed of the proposed of

rotected. As to the belief, the people brought out a determined opposition, others Mr Madlson propared a 'Me and termonstrance,' which was widely sixed and signed, and in which he strated that religion or the duty we the Creator,' was not within the cognitive and continued and strated that religion or the duty we the Creator,' was not within the cognitive and the proposed of the same people of the people

see or Beverldge Do you understand that thybody is contending here that this smalltes or anybody else has a right to auth into the belief of anybody?

Mr. Worthington. We have been doing

Air. Worthington. We have been doing that all the morning.

Air. Van Cott. We have been doing it all the morning, but if Senator Beveridge will excuse me, I will proceed with the end quotation. It goes on:

It is declared "that it is time enough for the rightful purposes of civil government for its officers to interfers when principles break out into overt acts against peace and good order." In these two sentences is found the true distinction between what properly belongs to the church and what to the state.

So, answering Senator Hear and putting in that element of religious belief, if this band of counterfeiters believe it is proper for them to counterfeit money— Hoar's Question Not Understood.

for them to counterfeit money—

Hoar's Question Not Understood.

Senator Hoa... I do not think you quite understand my question, if I may be permitted to state it without anticipating the final decision at all, if we come to any final decision in this case. I do not believe—I can only speak for myself—that any member of the committee will be found questioning the general statement that you make. Certainly I do not believe I ever shall. I have made a public statement on that question quite recently in regard to anarchy. That is, I suppose we have no right to deal, in determining Mr. Smoot's case, with any article of religious faith of his, and I suppose further—now. I speak only for myself—that I have no right to impute to him what I think may be the logical deduction from his beliefs, but which he himself does not accept. He is not obliged to be judged by my logic as to what is the result of his creed.

That is the great source of all religious persecutions and tyranny in this world. But, on the other hand, suppose he believes that it is a religious duty, or at any rate a right, whether a duty or not, to disobey a law of the land and belong to an association organized for the purpose of persuading other people to disobey that haw of the land, to persuade other people that it is not a religious duty to do it. or at any rate, their right to do it. Suppose at the outbreak of the civil war in some Northern State an association had been formed who believed that it was their own right and duty to Join the ranks of the confederates. There are a great many men who believed that it was their own right and duty to Join the ranks of the confederates. There are a great many men who believed that the confederacy was entirely right as far as it was concerned in the doctrine of secession; but suppose that they believed it was their right and duty to Join the ranks of the confederacy and they formed an association to urge their fellow-citizents to join the ranks of the confederacy of instignting unlawful action in other people

Offer of Proof.

Offer of Proof.

I understand that Mr. Tayler, in these four lines which I have read just now, makes, among other things, this offer of proof, that there is an association or body of men known as the presidency and the twelve apostles of this church who are organized, among other things, for that error organized, among other things, for that error organized, among other things, for that and he proposes to show it by showing that Mr. Smoot is so connected and intimate with them that he must know their purposes and practice and that their practice is fiself a violation of the law, and, whether Mr. Smoot violates it or not, all these other men do, that he must know it and that, having joined their association, he must have joined it for the purpose of helping them promote that doctrine.

I do not mean in the least to imply a suggestion that that thing either has been proved or that there is any step yet taken

wanted him to understand my proposiion.

Mr. Van Cott. Senator Hoar, as I had
learly finished my statement, probably
my answer had better be completed, and
then it can be determined.
Senator Hoar. Very-well.
Mr. Van Cott. I think I apprehend Senator Hoar's question correctly, nithough
I had not finished my entire answer to it
i was just coming to the question that
Senator Hoar last discussed this question
of practice. Taking the illustration of
those men actually counterfeiting inoney.

There is the statement, on page 25. If

There is the statement, on page 25. If they charge Reed Smoot with no offense cognizable by law they do not charge him with the evert act of encouraging some person to commit a crime.

Now, answering the further question that I thought Senator Beverldge had in mind, and that Senator Hoar has suggested—that is suppose you are going to prove that Reed Smoot has encouraged people to disobey this law against going into polygamy. We have not objected to that kind of proof. They have not asked that question. They are simply asking now what George Teasdale has done. There is not a whisper nor a sign that they are inquiring or making any effort to show that Reed Smoot ever encouraged that to be done, and that is the point to which the objection goes.

Two Protests Filed.

Two Protests Filed.

Two Protests Filed.

Mr. Tayler. Mr. Chairman, the committee will notice, upon an examination of the two protests, and there were two illed against the continuation of Mr. Smoot in his seat in the Senate, that one of them is signed by J. L. Leilich, and the other is signed by some nineteen different gentlemen in the State of Utah. Mr. Leilich has not been here, and has not been represented by counsel. I represent the other protestants, nineteen in number, who signed the protest which any one who reads it will discover is a carefully prepared document, intended to set out a certain legal cause of action, if that word or expression is proper in this connection. In that main protest, signed by these tain legal cause of action, if that word or expression is proper in this connection. In that main protest, signed by these nineteen people, there is not a word about Senator Smoot being a polygamist. There is not a word about his having taken any oath, and nobody appears before the committee making any claim upon those two propositions. But the answer which Mr. Smoot filed selects and emphasizes and pakes conspicuous these two charges in the Leilich case, as if they were all the charges made, and proceeds then to demur to the allegations of the main petition and remonstrance, which is the only one which is here now for consideration.

When I appeared before the committee to outline the case we proposed to make, I produced, as it were, the claims made by the protestants whom I represented to some extent recasting the charges, but in no material sense changing them, and I then distinctly disavowed any relation with the charge of polygamy by Mr. Smoot and made no reference at all to any oath that it was said had been taken under the Leilich charge. So I have pursued the line of inquiry all the time that is set out in the several heads which were distinctly made in the opening remarks before this committee.

I think the whole paragraph ought to be considered in that connection; that is to say, not only the last section which Senator Hoar read, but this, on page 44, paragraph b.

The president of the Mormon church and

paragraph b.

The president of the Mormon church and a majority of the twelve apostles now practice polygamy and polygamous cohabitation, and some of them have taken polygamous wives since the manifesto of 1890. These things have been done with the knowledge and countenance of Reed Smoot Plurai marriage ceremonies have been performed by apostles since the manifesto of 1890 and many bishops and high officials of the church have taken plural wives since that time.

Then follows the last sentence, which as been read. It all covers that No Mystery About It.

Now, there is no need of mystery it. Whatever individual Senator's

may be as to their duty or as to the conclusions to be drawn if certain testimony is to be given, that charge means just this, that the president of the church, notwithstanding his and his associates promise to abandon polygamy and polygamous cohabitation notwithstanding the fact that the law of the land declares against it, notwithstanding the fact that the law of the church to unlawfully cohabit, the president of the Mormon church, the daily associate and superior of Reed Smoot, has been constantly living in polygamous cohabitation with at least five wives; and the same thing is true of a large majority of Reed Smoot's weekly associates, to put it no stronger, on this body, organized upon the basis, among other things, as a fundamental proposition believed in today by the president of the church as a divine order temporarily suspended, that plural marriage was right.

Now, it may be that a just interpretation of sill the facts which we shall endeavor to prove and lay before this committee may induce the committee and the Senate to believe that Mr. Smoot ought not in the kind of a church which has the kind of revelation and the kind of authority which the head of the church has declared himself to possess. It may be, I say, that no interpretation can properly be made that will affect the right of Reed Smoot to his seat in the Senate but that is what we propose to prove, and the church that is what we propose to prove, and the chore with the chart of the church as a divergence of the content of the acts of these in association with him in the kind of a church which has declared himself to possess. It may be, I say, that no interpretation can properly be made that will affect the right of Reed Smoot to his seat in the Senate but that is what we propose to prove, and the church and the church has declared himself to possess. but that is what we propose to prove, and the illustration that Mr. Van Cott used about witchcraft, or belief in withcraft, is most apt and appropriate here. Just substitute the words "witchcraft and its practices" for the words "polygamy and polygamous cohabitation," and where would Mr. Smoot be?

What Will Be Proven

Senator Beveridge. Do you propose to prove, in connection with what you have just said in connection with the practic of these other apostles, that the presidency and the apostles constitute a propa

ganda of polygamy?

Mr Tayler Undoubtedly,
Senator Beverldge. At

ime?
Mr. Tayler Undoubtedly they do.
Senator Beveridge. That is quite-perti-nent and proper, if it is true. That gets Tayler. How can the ruling order of a church, the large majority of it, pro-claim their belief in polygamy as divine which has been merely temporarily sus-sended in its practice, they say, by law and who themselves are in daily practice of that habit and not constitute a propa-

ganda?
Senator Beveridge. My question is whether, in connection with what you have just stated, you propose to prove that the high priests of this body of men, the apostles, constitute a present propaganda of polygamy?
Mr. Tayler Undoubtedly.

Worthington Surprised.

Worthington Surprised.

Mr Worthington, Mr Chairman, we made no objection to any question that was asked until this one, not because we conceded that the evidence which was introduced here was pertinent to the issues, or, whother pertinent or not, could in any wise reflect upon Reed Smoot to his seat in the Senate. Although we are lawyers, practicing daily in the courts, we know that it is impossible to proceed by having objections made to testimony as it comes along and ruled upon at the time, as would be done in a court of justice, and we have made no objection until we come to a point which we think is fundamental and important, and upon which we ought to have the ruling of the committee before we go any further. That being had, we shall, of course, submit and proceed with the case upon such adjudication as the committee may make as to what are the issues it is to determine here and what is competent evidence upon those issues.

as to what are the issues it is to determine here and what is competent evidence upon those issues.

I have been very much surprised to hear my brother, Mr. Tayler, announce this morning that he never charged and never represented, as I understand him, anybody who did charge that Reed Smoot had taken an oath which is inconsistent with his obligation as a Senator. He does represent the nineteen protestants who filed the first protest, and I find, by looking at the conclusion of that protest, on page 25, this, which he now youches for as one charge that is to be made here, as I understand:

We submit that bowever formal and reserved.

We submit that, however formal and reg

Mr. Tayler. Barring the metoric, that is a fact.
Mr. Worthington. I do not know what, barring the rhetoric, that means if it does not mean that Reed Smoot came to the Senate under some obligation which is inconsistent with the oath which he had to take as a Senator, and that the previous obligation binds him now and not the oath which he took as a Senator.

Position of Protestants.

of course, an obligation may occur without formal words which bind him to something which is in terms unlawful and un-patriotic.

Mr. Worthington, Very well. When we

came before the committee in the first in-stance there was a revised set of charges made by the counsel representing these made by the counsel representing these same protestants. Those charges are found on pages 42, 43 and 44. I will not take time to read them, but that charge is not repeated in any form whatever, and is abandoned. Now counsel, I understand, are revising their revision. He now in-forms us he does insist on his original charge.

Mr. Tayler. We never abandoned that. That is an inference from all of it. The obligation that he, as a member of this hierarchy, must be under, whether he ever took a formal oath or not, constitutes that relation and brings about that result. We do not abandon a word of the charge made

in this paper.

Mr. Worthington. Then you do charge that he was under an obligation when he took the eath as Senator which was inconsistent with his oath as Senator?

Mr. Tayler. I say his obligation as a member of that hierarchy was, as this article says surreme.

serticle says, supreme.
Senator Foraker. I understood, as one member of the committee, that that was the essence of the whole charge, aside from the charge of plural marriage.

Worthington Explains.

Worthington Explains.

Mr. Worthington. When we filed our answer to the first set of charges by the nineteen protestants and the other individual protestant, we set forth that our judgment of the situation was that in all this rhetoric there were the two charges which could in any wise constitutionally affect the right of Senator Smoot to retain his seat. One, the charge that he was a polygamist, which was made by Leilich and was not made by the nineteen, and this other, that he was bound by some oath or obligation which is inconsistent with the oath required by the Constitution and which we understood to be made by both protests; but Senator Smoot, while he said that, went on and asked the committee to decide that nothing else was pertinent. He went on and answered fully as to the other charges. So when these revised charges were made we answered them in the same way, so far as they made any charge which we considered to be pertinent.

The only thing that is before the committee today is this charge which is contained on page 44, which is simply in substance this: That Reed Smoot is not a polygamist, but he has encouraged others to be polygamists—to take plural wives and to live in cohabitation; that he has encouraged others to do it. That, now is medified into this statement, as suggested by the Senator from Massachusetts and as practically adopted by the counsel for the respondent, that the first presidency and the apostolate of the Mormon church, composed of fifteen people, are a body which is organized for the purposelet me quote the language of the Senator, "to inculcate polygamy and to encourage others to practice it."

Let me say, in the first place, it has not yet been shown to the committee when fleed Smoot became an apostle. As a matter of fact, he became an apostle in the year 150 and we have testimony here about the blural marriage of a man who died in 1896, I do most respectfully submit that the fact that a man was a polygamist and died in 1896 is not pertinent.

to a charge that in 1900 Reed Smoot joined

to a charge that in 1900 Reed Smoot joined a conspiracy to perpetuate polygamy thereafter.

I say further that if it be shown here, if the counsel can show it to the committee and to the Senate, that Reed Smoot did belong to this organization and that it was an organization to inculcate polygamy and encourage others to practice it, and that is the situation today, he ought to be put out of the Senate, and nobody would deny it, because he would be engaged then in a criminal conspiracy to violate the law of the State and the ordinance of agreement under which Utah was admitted into the Union. It would not be necessary, Mr Chairman and Senators, to go one step further and to show that anybody had as a matter of fact ever acted under that advice and had taken plural wives because if he sat around a table with the others, as you gentlemen sit around this table, and entered into the conspiracy that they would endeavor to have the law violated and have people enter into polygamy, the evidence is complete, and it is a very serious charge.

I say, therefore, that the evidence before the committee should be directed to the proof as to that conspiracy to show that

the committee should be directed to the proof as to that conspiracy, to show that they are a band of conspirators; and not, I respectfully submit, that some of the members of the organization to which he belonged committed the crime to which it is said they were organized to inculcate and encourage.

is said they were organized to inculcate and encourage.

Let me suggest a matter myself which I take it is a little different from those other illustrations. Suppose Reed Smoot was a member of the vestry of an Episcopal church in this city composed of twelve persons, and it was charged against him that he belonged to that vestry and it was crganized for the purpose of encouraging and inculcating the theory and practice of adultery and improper sexual relations generally. When he was brought to bar would it be evidence, in the first place, to show that some member of that vestry has been in the habit of committing that offense or that two or three of them had been? I submit not, Mr. Chairman.

Hoar Questions Worthington.

Hoar Questions Worthington.

Senator Hoar. No. But if they all be eved it was a religious duty to do it, and

hold it to be immaterial that all the other eleven of the twelve members you speak of continued to do it?

Mr. Worthington. In the first place, there is no offer by anybody to prove that all the other members did.

Senator Hoar. But I understand there is an offer to prove a very considerable number did.

Mr. Worthington. It is said a majority of them. The councl has not yet stated how many.

Mr. Tayler. We do not propose to limit outselves to the size of the majority. Senator Pettus. I will ask counsel this question: Supposing all he has said to be correct, can you not prove the most solemn facts in the courts by mere circumstances?

emn facts in the courts by mere circumstances?

Mr. Worthington. Assuredly; and so may a conspiracy be proved.

Senator Foraker. In a charge of conspiracy, however, the rule is you must show conspiracy.

Mr. Worthington. That is exactly what I was going to suggest. This is practically a charge of conspiracy, that these fifteen men entered into a conspiracy to encourage the practice of polygamy. The evidence that has gone in so far is that they believed in the theory and practice of polygamy up to a certain date, and after that date, which was in 1896, they not only expressly but really modified their belief and their practice.

Evidence Competent.

Evidence Competent. Senator Hoar. Is not this evidence com-petent on the question whether they really modified their belief and their practice

petent on the question whether they really modified their belief and their practice? That is the point.

Mr. Worthington. I think not. I think it is not competent to show by the overt act of one of the alleged conspirators that the conspiracy existed. We have just the inhed in our court a long trial for conspiracy, and I think nobedy in that case controverted the ruling which was made and which is uniformly made in our court—I know not what it may be in other jurisdiction—that where parties are on trial for conspiracy you must prove the conspiracy first, and then you must prove the overt act by some of the conspirators, and they are all bound by it If done in pursuance of the conspiracy. But here is evidence which, if it establishes anything establishes that there was no conspiracy, and they are offering evidence of the overt act. I submit the committee should hold that the counsel should offer evidence which they claim tends to show conspiracy, and when they have offered that then the committee and decide whether it makes out a case and whether it is necessary to proceed any further.

The question is asked whether a certain Mr. Teasdale was a polygamist. Let us see where this will lead. Mr. Teasdale, it turns out, was an apostle. It is stated in the first answer that was filed here that at the time of the manifeste there was some two or three thousand polygamists in Utah; that the number had dwindled.

filed there were about five hundred. Would it be competent to prove, these men being scattered all over the State of Utah, that down in the southwest corner of Utah, some one was having plural marriages and up in the northeast corner of the State some other man was having plural marriages and go on as counsel chose, to select all the five hundred people?

If you had proved there were 200 people and every one of them had a dozen wives, you would not have advanced the case one step, because the question would come back. Did these people who met around this board, and who are called the first presidency and the apostles, organize for the purpose of encouraging and pursuing that thing? Are they encouraging the pursuing that thing? It is not an important and vital point, and the committee ought to give it careful consideration and decide before we go on to this boundless sea to which counsel are taking us, and as to which, if they should succeed in proving there were 200 polygamists and 2500 plural wives, it would not, as to Reed Smoot, advance the cause a particle, and would not even call upon us to reply.

The Chairman. I suggest to the committee that we have an executive session, as there are some matters to be considered, and that the committee ask all persons except members of the committee to leave the room.

sons except members of the committee

sons except members of the committee to leave the room.

The committee will adjourn at the expiration of the executive session until tomerrow morning at half-post 10.

At 4 o'clock and 5 minutes p. m. the committee went into executive session.

Decision of Committee.

Decision of Committee.

The committee met at 19:39 o'clock a. m. Present: Senators Burrows (chairman). Hour Foraker. Beveridge, Dillingham, Houkins, Pettus, Dubois and Overman; also Senator Smoot; also Robert W. Tayler, counsel for the protestants, A. S. Werthington and Waldemar Van Cott, counsel for the respondent, and Franklin S. Richards, counsel for Joseph F Smith and other witnesses.

The Chairman. At the time of the adjournment of the committee yesterday, objection had been made by counsel for the respondent to a certain question put

e respondent to a certain question pur counsel for the protestants as follows 'Mr Tayler Do you know George Teamdale Smith Yes, sir; I know George

Teasdale. 'Mr. Tayler, How long have you known him? Mr Smith I have known him ever

Mr. Tayler. He is one of the apostles?
Mr. Tayler. He is one of the apostles?
Mr. Smith. Yes, sir.
Mr. Tayler. How long has he been one of them?
"Mr. Smith. That I could not tell from

memory
'Mr Tayler Well, about how long?
'Mr. Smith. I should think over twee years.
"Mr. Tayler. How often do the first presidency and the apostles meet? "Mr. Smith. We generally meet once a

"Mr. Tayler. Was he a polygamist? To which latter question counsel for the espondent objected. In order that counsel may understand the limit of this in vestigation as nearly as possible, the committee will permit counsel for the protest ants: as bearing upon this charge in the protest, namely:

"This body of officials"— Meaning the first presidency and the

Meaning the first presidency and the twelve apostles—
"Of whom Senator-elect Smoot is one, also practise and connive at and encourage the practice of polygamy and polygamous consbitation"

As bearing upon that charge, the committee will permit counsel to inquire into the teachings and practice of the president and the twelve apostles in this regard since the 28th day of September, 1890, the date of the Woodruff manifesto. Mr. Tayler, are you ready to proceed?

Mr. Tayler. We are.

Beveridge Breaks In.

Beveridge Breaks In.

Senator Beveridge. Mr. Chairman, I wish to say a word. I think it important, as a matter of justice to the committee, that we should see just where we are at this juncture. I think it is pretty generally understood by the country, and it was understood even by three or four members of this committee up to yesterday, that objection was made to Mr. Smoot being a United States Senator on the ground that he is a polygamist. Now we hind, not that that charge is withdrawn, but that the attorney for the protestants acclares he never made it. So as to the popular notion that Mr. Smoot is being tried as a polygamist, not only is that not asserted, but, so far as this investigation is now concerned, it is conceded by protestants that his life in that particular is as correct as that of any one else.

Second. That he was charged with having taken an oath inconsistent with his oath as a Senator of the United States. I understand Mr. Tayler to say, also, that not only is that charge not withdrawn, but that it never was made so far as his clients are concerned. Therefore, at this juncture we find that Mr. Smoot is not being tried as a polygamist, for it is conceded that that condition does not exist, and that his life is correct, and, on the other hand, it is not charged and we are not trying him upon the ground that he has taken an oath inconsistent with his cath as a Senator of the United States. Hence, the issue to which this is reduced, and upon which we are proceeding and shall proceed from now on and upon which, so far as the protestants are concerned. Mr. Smoot is being tried, as it were, is the one stated by the chairman, in substance, that he is a member of a conspiracy.

I think it is fair to make this statement, because I think it is pretty generally understood in the popular mind that we are proceeding here to try. I we the word

because I think it is pretty generally understood in the popular mind that we are
proceeding here to try-I use the word'try' in a broad sense—Mr Smoot for being a polygamist and for having taken an
eath inconsistent with his oath as a
which is true.

Dubois Dissents.

Senator Dubols Mr. Chairman, I desire to enter my dissent. There was no mem-ber of this committee, unless it may have been the Senator from Indiana— Senator Beveridge. The Senator from Ohio.

Senator Dubois. And possibly the Senator from Ohio.
Schalor Beveridge And the Senator from Vermont.
Senator Dubois. No: I do not include

Senator Dubols. No: I do not include the Senator from Vermont, who thought that we were trying Mr. Smoot upon the charge of his being a polygamist, or of his having taken an oath as an apostle which was incompatible with his oath as a Senator. That esiarge was not preferred by the committee of nineteen from Salt Lake City. Utah. That charge was preferred by an individual named Lellich and was regulated instantly by telegram from the protestants—the nineteen—and no one ever appeared here, and it was stated in the first meeting, to answer to a direct quest

appeared here, and it was stated in the first meeting, in answer to a direct question, that no one was present to press those charges.

The committee understood, if I at all rightly interpret the committee, and I have had the pleasure of being present at every meeting, that the respondent was being tried upon the charges preferred by the committee of nineteen, which struck at the polygamous practices of this hierarchy, and the control, the absolute control, which this hierarchy exercises in temporal and political affairs.

Scope of Investigation.

For the first time in fifty years this committee understood, if I understand the committee rightly, that the relations of this organization to the United States were to be investigated at this meeting. There was no disposition upon the part of any one represented here in person, or by counsel, to try Mr. Smoot on the charge that he was a polygomist or there. was incompatible with the oath he has aken as United States Senator, while constantly the attorneys on the other side, ind people not representing the protestints, have been trying to force the protestints, have been trying to force the protestints to issues which they themselves ave never raised. Senator Hoveridge. Then we agree, Those two issues are eliminated, and hose are not the things upon which we are trying him.

trying him, enator Dubois. Those are not the ngs upon which we are trying him, and was not within the mind of the comse that we were nator Pettiis. Mr. Chairman, I pro-against this debate ne Chairman. We will proceed with he case. Mr. Tayler, Mr. Smith will you take the

President Smith Resumes.

Joseph F. Smith, having previously af-irmed, was examined, and testified as fol-Mr. Tayler. Before proceeding with the Mr. Taylor Before proceeding with the line of questioning respecting Apostic George Teasdale, Mr. Smith, I desire to recur for a moment to the subject of Abraham H. Cannon. At the time of his death he was an aposite?

Mr. Smith Yes, sir.

Mr. Taylor. How long had he been an aposite or about how long?

Mr. Smith. I do not know.

Mr. Taylor. Had he been for some time; some years?

Mr. Smith. Yes, some years.

Cannon a Polygamist.

Mr. Tayler. At the time of his death is was a polygamist, you stated, I be-Mr. Smith. That is my understanding, Mr. Tayler. You knew several of his

Mr. Smith. Well, I can not say I know them, except that I have seen them.
Mr. Tayler. You have seen them?
Mr. Smith. Yes, sir, and they were resorted to be his wives.
Mr. Tayler. And they were reputed to be his wives?
Mr. Smith, I do not know anything about it.
Mr. Tayler. Prior to June, 1898, you had ever heard of Lillian Hamilin being his wife?

Mr. Smith. No. sir.
Mr. Tayler. Nor had you known her
prior to that time?
Mr. Smith. No. sir.
Mr. Tayler. Did you see them at Los
Angeles?

Smith Yes, sir. Tayler. Were you out in a boat from there: Mr. Smith. Yes, sir. The Chairman. I did not understand

The Chairman. I did not understand the date.

Mr. Tayler. June. 1895.
The Chairman. 1896?
Mr. Tayler. Yes.
The Chairman. Proceed.
Mr. Tayler. Where did you go with them in a boat?
Mr. Smith. We went to Catalina island.
Mr. Tayler. Did you go from there anyhere out in the water?
Mr. Smith. No, sir.
Mr. Tayler. Your journey through the water was merely from the mainland to was merely from the mainland to

Heard He Married Them

Mr. Tayler. Was there any talk, o did anything occur while you were aboar that boat, respecting the marriage re-lations of Abraham H. Cannon-

Mr. Smith. No. sir.
Mr. Tayler. And his wife?
Mr. Smith. No. sir.
Mr. Tayler. No reference was made to

atalina island? Mr. Smith. That is correct.

in layer. No reference was made to subject at all? fr. Smith. Not to me. r. Tayler. Not to you? r. Smith. No. sir ir. Tayler. To whom was any refer-

once made?
Mr. Smith. I do not know.
Mr. Tayler. Nothing was said in your presence or to your knowledge about that subject?
Mr. Smith. No. sir. The first I heard of it was years afterward through the public prints.

Mr. Tayler. Through the public prints?
Mr. Smith. Yes, sir.
Mr. Tayler. That is, that you had married them aboard that yegsel?
Mr. Smith. That is what I heard in the ifesto. Yes, sir.
That is, that you had mar-oard that vessel?
That is what I heard in the

Mr. Smith. That is what I heard in the public prints.
Mr. Tayler That is what you heard.
Mr. Smith Yes sir.
Mr. Tayler. Did you have any talk on that journey of after you left Salt Lake—after you first heard or learned that Lillian Hamilin was the wife of Abraham Cannon—as to when they were married?

married?

Mr. Smith. No. sir.

Mr. Tayler. Did you have any talk with either of them?

Mr. Smith. Not in the least.

Mr. Tayler. Not in the least.

Mr. Bmith. Not in the least, sir, and no one ever menitoned to me that they were married. I simply judged they were married. I simply judged they were married. I simply judged they were married.

were married. I simply judged they were married because they were living together as husband and wife.

Mr. Tayler. Exactly.

Mr. Smith. That is all I know about it.

Mr. Tayler. And your knowledge of any status which may have existed between them was not due to anything they told you?

Mr. Smith. No, air; not at all.

Donies That He Officiated.

Senator Foraker. Before he gets eway from that subject is there any objection to stating what he read in the newspapers—the story to which you have referred? Mr. Tayler. I did put that in I asked him if he had married them aboard the steamer.

Steamer. Senator Foraker. That is what you saw in the newspaper? Mr. Smith. That is what I read in the newspaper Senator Foraker. And there was no

truth in that?

Mr. Smith. No. sir.

Mr. Tayler. Was it a regular passenger Mr. Tayler. Was it a regular passenger steamer that you went over on?
Mr. Smith. Yes, sir; a regular passenger excursion steamer.
Mr. Tayler. Did you take any other trip down there with them?
Mr. Smith. No. sir.
Mr. Tayler. Did you say anything by way of criticism to Abraham Cannon?
Mr. Smith. No. sir.
Mr. Tayler. For going about with this wife?

Mr. Tayler. For going about with this wife?

Mr. Smith. No, sir; I did not. Mr. Tayler. Is the law of the church, as well as the law of the land, against the taking of plural wives?

Mr. Smith. Yes, sir I will say—Mr. Tayler. Is that the law?

Mr. Tayler. Is that the law?

Mr. Smith. I would substitute the word rule of the church.

Mr. Tayler. Rule?

Mr. Smith. Instead of law, as you put it.

Mr. Smith. Instead of law, as you put it.

Mr. Tayler, Very well. Then to take a plural wife would be a violation of a rule of the church?

Mr. Smith. It would.

Mr. Tayler. Would it be such a violation of the rule of the church as would induce the church authorities to take it up like the violation of any other rule would do?

Mr. Smith. It would.

Mr. Tayler. Is the colabitation with one who is claimed to be a plural wife a violation of the law or rule of the church as well as of the law of the land?

Mr. Smith. If the committee will permit me, I could not answer the question yes or no.

Mr Smith. If the committee will permit me, I could not answer the question yes or no.

Mr. Tayler. You can not answer it yes or no?

Mr Smith. No. sir. I should like to explain that matter.

Mr. Tayler. I surely have no objection myself to your doing so.

Mr. Smith. Mr. Chairman, may I be permitted?

The Chairman, Certainly; but be as brief as you can. You have a right to make your own answer.

Status of Polygamists. Mr. Smith. In regard to the status of polygamists at the time of the manifesto, it was understood for some time, accord-ing to the investigation before the mas-

Senator Hoar. I do not want to interrupt you, but you mean I suppose, with wives previously married?

Mr. Smith. That is what I mean. It was understood that plural marriages had ceased. It has been the continuous and conscientious practice and rule of the struction, connivance, coursel, or per-mission of the presiding authorities of the church, or of the church, in any shape or form; and I know whereof I speak, gen-

Mr. Smith. What was your question? The Cairman. Now let the reporter re-

The Cairman. Now let the reporter repeat the question.

Mr. Smith. Excuse me, I think I have the thread. Was it contrary to the rule of the church? It was.

Mr. Worthington. What was?

Mr. Smith. That is, the association of a man, having married more than one wife previous to the manifesto, abstaining from association with them.

The Chairman. I do not think you understand the question. Let the reporter read it.

end it.

The reporter read as follows:

"Mr. Tayler. Is the cohabitation with
me who is claimed to be a plural wife
i violation of the law or rule of the
hurch, as well as of the law of the Mr. Smith. That was the case, and is he case, even today. Mr. Tayler. What was the case; what ou are about to say?

Smith Defies the Law.

Smith Defies the Law.

Mr. Smith. That it is contrary to the rule of the church and contrary as well to the law of the land for a man to cohabit with his wives.

But I was placed in this position. I had a plural family, if you please; that is, my first wife was married to me over thirty-eight years ago, my last wife was married to me over twenty years ago, and with these wives I had children, and I simply took my chances, preferring to meet the consequences of the law rather than to abandon my children and their mothers; and I have cohabited with my wives—not openly, that is, not in a manner that I thought would be offensive to my neighbors—but I have acknowledged them; I have visited them. They have borne me children since 1896, and I have done it, knowing the responsibility and knowing that I was amenable to the law Willing to Submit to Penalty.

Willing to Submit to Penalty.

Willing to Submit to Penalty.

Since the admission of the State there has been a sentiment existing and prevalent in Utah that these old marriages would be in a measure condoned. They were not looked upon as offensive, as really violative of law they were in other words, regarded as an existing fact, and if they saw any wrong in it they simply winked at it. In other words, Mr. Chairman, the people of Utah as a rule, as well as the people of this Nation, are broad-minded and liberal-minded people, and they have rather condoned than otherwise. I presume, my offense against the law I have never been disturbed. Nobody has ever called me in question, that I know of, and if I had, I was there to answer to the charges or any charge that might have been made against me, and I would have been willing to submit to the penalty of the law, whatever it might have been.

Mr. Tayler. So that obedience to the law is perfectly satisfied, according to your view of it, if one is ready to pay the penalty for its violation?

Mr. Smith. Not at all, I should like to draw a distinction between unlawful co-habitation and polygamy. There is a law

air. Smith. Not at all. I should like to-draw a distinction between unlawful co-habitation and polygamy. There is a law prohibiting polygamy, plural marriages. Senator Hoar You mean now a law of the State of Utah?

Distinction Between Laws.

Mr Smith. I mean the law of the State, and I mean that this is in the Constitution of our State. It is required by the enabling act. That law, gentlemen, has been complied with by the church; that

by the consent of salectuces approval of the church since the manifesto.

The law of unlawful cohabitation is another law entirely, and relates to the cohabitation of a man with more than one wife. That is the law which I have presumed to face in preference to disgracing myself and degrading my family by turning them off and ceasing to acknowledge them and to administer to their wants—not the law in relation to plural marriage. That I have not broken. Neither has any man broken it by the sanction or approval of the church.

Mr. Tayler, You say that there is a State law forbidding unlawful cohabitation?

tion?
Mr. Smith. That is my understanding
Mr. Tayler. And ever since that law Mr. Tayler. And ever since that law
was passed you have been violating it?
Mr. Smith. I think likely I have been
practicing the same thing even before the
law was passed
Mr. Tayler. Yes.
Mr. Smith. Long years before it was

Held Plurals as His Wives.

Mr. Tayler. You have not in any 16spect changed your relations to these
wives since the manifesto or since the
passage of this law of the State of Utah.
I am not meaning to be unfair in the
question, but only to understand you.
What I mean is, you have been holding
your several wives out as wives, not offensively, as you say. You have furnished them homes. You have given them
your society. You have taken care of the
children that they bore you, and you
have caused them to bear you new children-all of them.
Mr. Smith. That is correct, sir.
Mr. Tayler. That is correct,
Mr. Smith. Yes, sir.
Mr. Tayler. Now, since that was a violation of the law why have you done it?
Mr. Smith. For the reason I have
stated. I preferred to face the penalties
of the law to abandoning my family.
Mr. Tayler. Do you consider it an abandonment of your family to maintain relations with your wives except that of occupying their beds?
Mr. Smith. I do not wish to be impertitent, but I should like the gentleman to
ask any woman, who is a wife, that question.
Mr. Tayler, Unfortunately or fortunate-Mr. Tayler. You have not in any 10-

Mr. Tayler. Unfortunately or fortunately, that is not the status of this examination at this point.
Mr. Smith. All the same, it is my senti-

Mr. Smith. All the same, it is my sentiment.
Senator Foraker. I do not see how investigation along that line is going to give us any light. What we want are facts. The witness has testified to the fact. This is all a matter of argument and discussion—the effect of it, or what his opinion is about it. It is our opinion we are concerned about.

crined about.

The Chairman Mr. Tayler, confine yourself to the question of fact.

Mr. Tayler, Will the Chair permit a The Chairman Certainly.

Tayler States Case.

Tayler States Case.

Mr. Tayler. I do not know whether the inference to be drawn from the state of facts is sufficiently clear, or whether it would be proper to pursue it further. But I take it that it is to the last degree important to understand what lies at the foundation of the acknowledged and professed defiant violation of the written law of the land coupled with a mere expression of willingness to accept the consequences of that violation. This is all. That was contended for by Joseph Smith prior to 1890, and by the long line of saints that preceded him.

Mr. Smith. I beg your pardon.

Mr. Worthington. Just a moment, Mr. Smith.

Mr. Taylor. And therefore it strikes.

Smith.
Mr. Tayler. And therefore it strikes me that an explanation from this who is the spiritual head of the ch the immediate superior of Senator Sn the man who receives divine reveia

respecting the duty and conduct whole body of the church, as to thus defiantly violates the law, is anation.

Mr. Tayler. If that is all of his expla-Air. Taylor. If that is all of his explanation, of course I can not compinin, but I do not think it is.

Senator Foraker. This is the only point of the objection. The witness stated the fact that he is constiting still with plural wives notwithstanding the law, and told us why. Now, it seems to me, we should not enter into a discussion as to whether or not that is good morals or whether or

Senator Hoar. May a manage of the Chairman?

The Chairman Certainly.

Senator Hoar. It is that this inquiry be not allowed at present, and that if it shall appear to the committee hereafter that there is doubt about the truthfulness of Mr. Smith's statement, which he has already made, as to the discontinuance of the actual practice of new plural marthe actual practice of new plural marthe counsel be permitted to renow the counsel beautiful to renow the counsel

stion be not allowed now and that the omittee will take it up under a changed dition of things bereafter.

What Was Understood. Senator Dubols. I should like to be permitted to ask the witness one questlon, which I think will not provoke any controversy. Was it not understood and stated by the Judges and those in authority, and was it not understood by all living in that country—Utah and Idaho and Wyoming, etc. where these practices existed—that it was the duty of polygamists to continue to provide for and support their polygamist wives and children after the manifesto was issued;

the manifesto was issued?

Mr. Smith. That was generally under-Mr. Smith. That was all-1, for one at stood.

Senator Dubois. We all-1, for one at least-understood that it was their duty to provide for and take care of their wives and children in a material way.

The Chalrman. Mr. Tayler, proceed.
Senator Beverldge. What becomes of the motion of the Senator from Massachusetts?

Senator Foraker. It was more in the pagentor Foraker. It was more in the pagentor Foraker.

setts? Senator Foraker. It was more in the nature of a suggestion in the Senator's mind that counsel be not allowed to ask the question now, because of the present state of evidence, and that if, because of a change in the state of the evidence, the committee should deem the question perities the counsel could recall the witness. Senator Hoar. I suggested it in order to

Senator Hoar. I suggested it in order to eave time.

The Chairman. Mr. Tayler, suppose you withdraw the question.

Mr. Tayler. I withdraw the question for the time being.

Mr. Worthington. Mr. Chairman, I should like to say, in reference to the question asked by counsel as to what the witness might do with his wives without violating the law, that in the case of Cannon vs. the United States and in the case of Soow vs. the United States which came before the Supreme court, the Cannon case in 1885, the court decided—Senator Hoar. My suggestion was made with a view of stopping this discussion.

The Chairman—We will never get through if it is to continue. Mr. Tayler, will you proceed with the examination of this witness?

Mr. Tayler. Mr. Smith how many children have been born to your several wives

dren have been born to your several wives since the manifesto of 1890? Worthington Objects.

Mr. Worthington. I object to that. He professes that he has been living with them. What difference does it make whether it is one child or three?

Mr. Tayler. Of course, it will be important as showing how continuous, how nettorious, how offensive, has been his conduct in this respect.

Senator Foraker. The committee must necessarily infer from what the witness stated that this cohabitation has been continuous and uninterrupted.

timous and uninterrupted.

Senator Beveridge. He no stated.

Mr. Tayler. Precisely, but not how well advertised, how offensive, bow instructive) it has been to his people; how compelling. Senator Beveridge. I understood the witness to say that he had children born to him since that time.

witness to say that he had children born to him since that time.

Mr. Tayler. Precisely.

Senator Beveridge. That has already been stated.

Mr. Tayler. But it makes a great difference whether at is two or twenty-two.

The Chairman. Mr. Smith, I wish to ask you a question preliminarily. I understood you, in response to a question of ccunsel, to state that you married your